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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/071,066

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Richard C Johnson

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EXAMINER

HEWITT II, CALVIN L

ART UNIT

PAPER NUMBER

3621

DATE MAILED: 04/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/071,066	JOHNSON, RICHARD C	
	Examiner	Art Unit	
	Calvin L. Hewitt II	3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Status of Claims

1. Claims 1-44 have been examined.

Response to Arguments/Amendments

2. Abecassis teaches a computer site (figure 1A; column/line 5/65-6/7) for facilitating transactions between buyers and sellers, and to one of ordinary skill, the site is secure. For example, in order to access said site buyers and sellers use special cards (column 5, lines 1-25), PINs (column 6, lines 8-16), passwords (column 8, lines 54-58) and access codes (column/line 10/59-11/11). Regarding a definition of a "draft" (see new 112 below), Applicant's disclosed system refers to several types of drafts, therefore it is not clear which "draft" the claim is directed to. For example, Applicant states that a "draft" is a written order by a drawer, instructing a drawee to make a payment to a payee. Further, Applicant states that

In terms of e-commerce and the present invention, the Web seller may be thought of as the payee, the Web buyer may be thought of as the drawer and the financial institution such as the bank, may be thought of as the drawee (Specification, page 16, lines 17-21)

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Abecassis teaches a system for enabling a buyer to make purchases from a seller (column 3, lines 3-21) wherein prior to purchase a buyer makes a deposit (via check or draft) with a third party (column 5, lines 25-58) and if the buyer is satisfied with the purchase the system releases payment on the draft (column 8, lines 27-40). Therefore, Abecassis necessarily teaches Applicant's "draft" as upon satisfaction of terms the escrow service pays the seller (abstract).

Regarding "letter of credit", Applicant defines it as an agreement to honor drafts and/or other demands for payment upon satisfaction of all terms and conditions (Response, dated 1-30-06, page 14). In response to Applicant's remarks (Remarks, dated 1-30-06, page 13, lines 3-22) the Examiner would like to direct the Applicant to the teachings of Case. Case teaches a letter of credit device comprising a letter of credit card (figure 1), a draft (figure 3) and predetermined terms (figure 2) associated with the letter of credit such that upon satisfaction of the terms payment is released from the letter of credit to honor the draft (abstract; column 1, lines 13-25 and 59-65; column 4, lines 38-59; column 5, lines 20-29). Therefore, it would have been obvious to one of ordinary skill to combine the prior art teachings to enable a traveler to make a purchase using the system of Abecassis ('281, abstract) while remote from the traveler's issuing bank ('101, column 17-32).

Applicant also uses terms such as "when" and "upon" to describe claimed limitations. However, language that suggests or makes optional but does not

require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation (MPEP, Chapter 2106, section II, C). Therefore, language that follows, "upon", for example, cannot be used to distinguish the claims from the prior art.

Claim Objections

3. Claim 44 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claim 44 recites using a letter of credit to cover a draft when there are insufficient funds. Claim 1, from which claim 44 depends, requires, on the other hand, payment coming from the letter of credit upon satisfaction of predetermined terms. Therefore, claim 44 further limits claim 1 if and only if the predetermined terms are insufficient funds, an association not supported by the language of either claim.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

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The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1-23, and 38 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 1 recites "a computer site that shows the draft". Applicant defines a draft as a written order by a drawer, instructing a drawee to make a payment to a payee (Specification, page 16, lines 17-21), however not all types of "drafts" are shown at a secure computer site.

Claims 2-23 are also rejected as they depend from claim 1.

Claims 14 and 38 recite keeping the existence of a first letter of credit from a drawee. However, to one of ordinary skill, a seller (i.e. drawee) engaged in a commercial transaction with a buyer (i.e. drawer) using Applicant's system has knowledge of such a letter as the seller relies on Applicant's system to guarantee payment (Specification, page/line 52/7-53/17).

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-44 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 24 recite the term “draft”. Applicant’s Specification however, refers to several types of “drafts”. Specifically, Applicant refers to a traditional “draft” (Specification, page/line 16/17-17/20), an IDraftC (Specification, page 37, lines 7-11; page/line 37/11-38/6) and an IDraft (Specification, page 37, lines 7-11; page/line 37/11-38/6). However, it has been held that claims an essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous (*In re Zletz*, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989)). Therefore, as Applicant hasn’t identified the type of draft being referred to in the claims and that each draft type possesses characteristics not found in other draft types the scope of the claim is unclear. For example, only an “IDraftC” has contingencies or terms (Specification, page 37, lines 16-21), and IDrafts (i.e. IDraftC, IDraft) (Specification, page 55, lines 13-20) are linked to letters of credit while a “draft” (Specification, page/line 16/17-17/20) is not.

Claims 2-23, and 25-44 are also rejected as each depends from either claim 1 or 24.

Claims 14 and 38 recite keeping the existence of a first letter of credit from a drawee. However, to one of ordinary skill, a seller (i.e. drawee) engaged in a commercial transaction with a buyer (i.e. drawer) using Applicant’s system has

knowledge of such a letter as the seller relies on Applicant's system to guarantee payment (Specification, page/line 52/7-53/17).

Claim 37 recites the limitation "the letter of credit" in line 2. Claim 38 recites a similar limitation. Claim 44 recites "the credit extended to the drawer through the created first online letter of credit" in line 2. There is insufficient antecedent basis for these limitations in the claims.

Claim 44 is also rejected as it recites using a letter of credit to cover a draft when there are insufficient funds. Claim 1, from which claim 44 depends, requires, on the other hand, payment coming from the letter of credit upon satisfaction of predetermined terms. Therefore, claim 44 further limits claim 1 if and only if the predetermined terms are insufficient funds, an association not supported by the language of either claim. For purposes of examining the claim is being interpreted as *wherein the released payment originates at least in part from the first online letter of credit*.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abecassis, U.S. Patent No. 5,426,281 in view of Ogilvie, U.S. Patent No. 6,343,738 and Case, U.S. Patent No. 4,017,101.

As per claims 1-44, Abecassis teaches transaction system that includes payment via a secure electronic draft comprising:

- establishing a secure computer site, controlled by a financial service provider, that includes a draft (e.g. card or check) (abstract; figure 1A; column/line 5/65-6/35; column 7, lines 5-34; column/line 7/60-8/8)
- releasing payment on the draft to a drawee of the draft, upon removal of contingency (e.g. performance of services, date restrictions, etc.), at least a portion of the released payment originating from a fund source (column 7, lines 50-60; column 8, lines 17-40)
- sequestering funds at least equal to a portion of the payment of the draft (abstract; column 6, lines 8-16; column 7, lines 5-34)
- a secure computer site configured to keep a drawee from the buyer fund source (figures 1A and B; column 7, lines 50-60; column 8, lines 17-40)

More specifically, a seller cannot access and does not have knowledge of the existence of the buyer fund source. According to Abecassis, while a seller can access the secure computer site (column 5, lines 10-24; column 11, lines 55-60) the seller on the other hand cannot use the website to access the buyer's source of funds (e.g. letter of credit) (figure 1A; column/line 8/54-9/4). Abecassis teaches using any suitable conditions to define a successful transaction [claims 7, 23, 32 and 42]. Therefore, the prior art suggests to one of ordinary skill the use of a time limit in order to prevent fraudulent transactions services. Regarding the showing of a draft, Abecassis discloses depositing funds into an account by check (column 7, lines 5-11). However, storing received checks for future retrieval and display at a computer site is old and well known, therefore it would have been obvious to one of ordinary skill to implement the third party of Abecassis with electronic check storage in order to more efficiently store, retrieve and further process received documents such as checks. Regarding processing fees, fees are old and well-known and an obvious method for generating revenues [claims 8, 9, 12, 33, and 34]. Similarly, performance bonds are old and well-known, therefore it would have been obvious to one of ordinary skill to provide a buyer with protection mechanism to help guarantee satisfactory provision of goods and services [claims 15-20, 24, and 39]. Abecassis does not specifically recite authenticating drawer and drawee. Ogilvie teaches authenticating parties to an escrowed transaction (column 20, lines 40-56). However, neither Abecassis nor

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Ogilvie specifically recite releasing payment on a draft wherein at least a portion of the payment is from a letter of credit wherein the letter of credit has terms such that the satisfaction of the terms results in the releasing of payment from the letter of credit. Case teaches a letter of credit device comprising a letter of credit card (figure 1), a draft (figure 3) and predetermined terms (e.g. irrevocable or revocable, effective for a time) (figure 2) associated with the letter of credit such that upon satisfaction of the terms at least part of the payment for the draft is released from the letter of credit (increases value of the drawer's funds, effective for single or multiple transactions) to honor the draft (abstract; column 1, lines 13-25 and 59-65; column 4, lines 38-59; column 5, lines 20-29). Therefore, it would have been obvious to one of ordinary skill to combine the prior art teachings in order to protect drawer and drawee private information ('738, column 20, lines 40-48) and to enable a drawer (e.g. traveler) to make a purchase using the system of Abecassis ('281, abstract) while remote from the drawer's issuing bank ('101, column 17-32).

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

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- Walker et al. disclose writing drafts from a letter of credit that honors the drafts if terms associated with the letter of credit are satisfied
- Behera discloses electronic archiving of documents such as checks
- Walker et al. teach cryptographic letters of credit
- Grossi et al. disclose overdraft protection as a line of credit
- Carlson et al. disclose overdraft protection

11. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Calvin Loyd Hewitt II whose telephone number is (571) 272-6709. The Examiner can normally be reached on Monday-Friday from 8:30 AM-5:00 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, James P. Trammell, can be reached at (571) 272-6712.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
c/o Technology Center 3600
Washington, D.C. 20231

or faxed to:

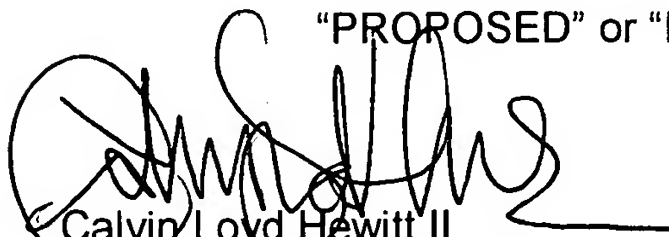
(571) 273-8300 (for formal communications intended for entry and after-final communications),

or:

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(571) 273-6709 (for informal or draft communications, please label

"PROPOSED" or "DRAFT")



Calvin Loyd Hewitt II
Primary Examiner

April 5, 2006